



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 1167-00
5 October 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 22 October 1956 at age 17. Prior to the offenses for which you received the bad conduct discharge you were awarded nonjudicial punishment on three occasions and were convicted by a special court-martial. Your offenses were two periods of unauthorized absence totaling about 18 days, dereliction of duty, and a uniform violation. A second special court-martial convened on 26 January 1960 and convicted you of two periods of unauthorized absence totaling about 73 days. The court sentenced you to reduction to pay grade E-1, forfeiture of \$70 pay per month for four months, confinement at hard labor for four months and a bad conduct discharge. The bad conduct discharge was issued on 27 May 1960.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education, current health problems and your contention, in effect, that you have been adequately punished by having a bad conduct discharge for over 40 years. The Board found that these factors and contentions were not sufficient to warrant

recharacterization of your discharge given your lengthy and repeated periods of unauthorized absence and other misconduct. The Board believed that after being convicted by court-martial of a period of unauthorized absence, you had to know the consequences of further absences. Therefore, your last two periods of unauthorized absence were considered to be indicative of willful misconduct. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director